

MORRIS PETERSON
 Steve Morris, Bar No. 1543
 Email: sm@morrislawgroup.com
 Ryan Lower, Bar No. 9108
 Email: rml@morrislawgroup.com
 900 Bank of America Plaza
 300 South Fourth Street
 Las Vegas, Nevada 89101
 Telephone: (702) 474-9400
 Facsimile: (702) 474-9422

Jeff M. Golub (*admitted pro hac vice*)
 Email: jgolub@brsfirm.com
 BECK, REDDEN & SECREST, L.L.P.
 1221 McKinney Street, Suite 4500
 Houston, Texas 77010
 Telephone: (713) 951-3700
 Facsimile: (713) 951-3720

Attorneys for Defendant
 Autoliv ASP, Inc.

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

NICOLE THOMPSON, SHIRLEY
 THOMPSON, and DENNIS THOMPSON,

Plaintiffs,

vs.

AUTOLIV ASP, INC., a Delaware
 Corporation; TRW AUTOMOTIVE U.S.
 LLC, a Delaware Corporation licensed in
 Nevada,

Defendants.

Case No. 2:09-cv-01375-PMP-LRL

**JOINT MOTION FOR
 DETERMINATION OF GOOD
 FAITH SETTLEMENT**

Plaintiffs Nicole Thompson, Dennis Thompson, and Shirley
 Thompson (collectively "plaintiffs") and defendant Autoliv ASP, Inc. ("Autoliv")
 submit their Joint Motion for Determination of Good Faith Settlement. This
 motion is made and based on the pleadings and papers in this proceeding, NRS
 17.245, and the points and authorities that follow.

POINTS AND AUTHORITIES

I. INTRODUCTION

On April 24, 2009, plaintiffs sued Autoliv, a supplier of automotive safety restraint components, along with TRW Automotive U.S., LLC ("TRW"), another supplier, for damages allegedly incurred as a result of a vehicular accident. Plaintiffs' amended complaint alleged claims for: negligence, gross negligence, negligence per se, product defect, and infliction of emotional distress. Plaintiffs Dennis and Shirley Thompson's claim for infliction of emotional distress was dismissed on summary judgment. They have appealed that decision.

To resolve this matter as between them, to avoid further expenses, and without admitting any wrongful conduct, Autoliv and plaintiffs have entered into a confidential settlement agreement to fully and finally settle all claims against Autoliv, subject to this Court's approval and determination that the settlement has been made in good faith. A copy of the confidential settlement agreement is being submitted in camera for the Court's review. Accordingly, this Court should issue an order determining that the proposed settlement between plaintiffs and Autoliv was reached in good faith.

II. LEGAL ARGUMENT

NRS 17.245 sets forth the effect of a release or a covenant not to sue when parties to a lawsuit have reached a settlement:

When a release or a covenant not to sue or not to enforce judgment is given in good faith to one of two or more persons liable in tort for the same injury or the same wrongful death:

(a) It does not discharge any of the other tortfeasors from liability for the injury or wrongful death unless its terms so provide, but it reduces the claim against the others to the extent of any amount stipulated by the release or the covenant, or in the amount of the consideration paid for it, whichever is the greater; and

(b) It discharges the tortfeasor to whom it is given from all liability for contribution and for equitable indemnity to any other tortfeasor.

1 NRS 17.245.1(a)–(b). The purpose of NRS 17.245 is "to encourage settlements by
2 discharging all liability for contribution by a settling tortfeasor to others upon a
3 finding that the settlement was entered in good faith." *Kerr v. Wanderer &*
4 *Wanderer*, 211 F.R.D. 625, 631, (D.Nev. 2002) (citing *In re MGM Grand Hotel Fire*
5 *Litig.*, 570 F. Supp. 913, 926 (D.Nev. 1983). The determination of a good faith
6 settlement is left to the discretion of the trial court and is based upon all relevant
7 facts available. *Velsicol Chemical Corp. v. Davidson*, 107 Nev. 356, 360, 811 P.2d 561,
8 564 (1991).

9 Although there is no exhaustive list of criteria to be considered when
10 determining whether a settlement has been reached in good faith, the Nevada
11 Supreme Court has held the following factors are relevant in evaluating good faith
12 issues related to the settlement of claims between parties: (1) the amount paid in
13 settlement; (2) the allocation of the settlement proceeds among plaintiffs; (3) the
14 insurance policy limits of settling defendants; (4) the financial condition of settling
15 defendants; (5) the existence of collusion, fraud or tortious conduct aimed to injure
16 the interests of non-settling defendants; and (6) the strengths and weaknesses of
17 any contribution or indemnity claims. *The Doctors Co. v. Vincent*, 120 Nev. 644, 98
18 P.3d 681, 686–87 (2004).

19 Here, Autoliv and plaintiffs have agreed to settle this matter for an
20 amount, which is fair and equitable. This settlement agreement was reached only
21 after the parties engaged in extensive arms' length negotiations, which included
22 mediation with mediator Joe Bongiovi, Esq. Before entering into this settlement
23 agreement, the parties and their counsel gave full consideration to the financial
24 condition of the settling parties, the discovery and results thereof, the strengths
25 and weakness of plaintiffs' claims and Autoliv's defenses, the merits of all
26 contribution and indemnity claims, the risks and possible result of a trial on the
27 merits, the litigation costs and expenses that would be incurred absent a
28 settlement, and the other benefits of resolving the claims at this time. Thus, the

1 settlement between Autoliv and plaintiffs was reached in good faith in accordance
2 with NRS 17.245.

3 **III. CONCLUSION**

4 Based on the foregoing, plaintiffs and Autoliv respectfully request the
5 Court to grant their motion for determination of good faith settlement and that the
6 Court also order that Autoliv ASP, Inc., be removed from the caption.

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8 EDWARD J. ACHREM &
ASSOCIATES, LTD.

MORRIS PETERSON

9
10 By: /s/ Edward J. Achrem
Edward J. Achrem, Bar No. 2281
512 South Tonopah
Suite 100
11 Las Vegas, Nevada 89106

By: /s/ Ryan Lower
Steve Morris, Bar No. 1543
Ryan Lower, Bar No. 9108
900 Bank of America Plaza
300 South Fourth Street
Las Vegas, Nevada 89101

12 Attorneys for Plaintiffs

13 Jeff M. Golub (*admitted pro hac vice*)
BECK, REDDEN & SECREST, L.L.P.
1221 McKinney Street, Suite 4500
Houston, Texas 77010

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15 Attorneys for Defendant
Autoliv ASP, Inc.
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CERTIFICATE OF SERVICE

Pursuant to Fed. R. Civ. P. 5(b) and Section IV of District of Nevada
Electronic Filing Procedures, I certify that I am an employee of MORRIS
PETERSON, and that the following documents were served via electronic service:

JOINT MOTION FOR DETERMINATION OF GOOD FAITH SETTLEMENT

Michael E. Stoberski
Olson Cannon Gurley & Desruisseaux
9950 West Cheyenne Avenue
Las Vegas, NV 89129
Attorneys for Defendant
TRW Automotive U.S. LLC

David R. Tippetts
Katheryne R. MarDock
Weinstein Tippetts & Little, LLP
7660 Woodway, Suite 500
Houston, Texas 77063
Attorneys for Defendant
TRW Automotive U.S. LLC

DATED this 23rd day of February, 2011.

By: 